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Barge B. No. 280 in rem and B. No. 280 Corp.

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CADDELL DRY DOCK AND REPAIR CO., INC.,

1:20-cv-000685-EK-LB

Plaintiff,

ANSWER

-against-

BOUCHARD TRANSPORTATION CO., INC., *in*
personam, BARGE B. NO. 280, *in rem*, and B. NO. 280
CORP., *in personam*,

Defendants.

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Defendants Bouchard Transportation Co., Inc., Barge B. No. 280 *in rem* and B. No. 280 Corp. by their attorneys, Freehill Hogan & Mahar, LLP, as and for an Answer to the Verified Complaint allege upon information and belief as follows:

1. Deny knowledge or information sufficient to form a belief as to the allegations in paragraphs 1, 2, 3, 5, 8, 9, 11, and 16 of the Verified Complaint.
2. Admit the allegations in paragraphs 4, 6 and 7 of the Verified Complaint.

3. Admit that Plaintiff issued Bills Nos. 20212, 20302, 20303, and 10304, but except as so admitted deny knowledge or information sufficient to form a belief as to the remaining allegations in paragraphs 12, 13, 14 and 15 of the Verified Complaint.

4. Admit that Plaintiff provided dock space to the Barge B. No. 280, but except as so admitted, deny the remaining allegations in paragraph 17 of the Verified Complaint.

ANSWER TO FIRST CAUSE OF ACTION

5. Repeat and reallege each and every response in the previous paragraphs of this Answer.

6. Deny the allegations in paragraph 19 of the Verified Complaint.

7. The allegations in paragraph 20 of the Verified Complaint are conclusions of law to which no Answer is required. To the extent they are factual, deny knowledge or information sufficient to form a belief as to those allegations.

ANSWER TO SECOND CAUSE OF ACTION

8. Repeat and reallege each and every response in the previous paragraphs of this Answer.

9. Deny the allegations in paragraph 22 of the Verified Complaint.

10. The allegations in paragraph 23 of the Verified Complaint are conclusions of law to which no Answer is required. To the extent they are factual, deny knowledge or information sufficient to form a belief as to those allegations.

ANSWER TO THIRD CAUSE OF ACTION

11. Repeat and reallege each and every response in the previous paragraphs of this Answer.

12. Deny knowledge or information sufficient to form a belief as to the allegations in paragraphs 25, 26, 27 and 28 of the Verified Complaint.

FIRST AFFIRMATIVE DEFENSE

13. Plaintiff has failed to make proper service of process on Defendants Bouchard Transportation Co., Inc. and B. No. 280 Corp. and as a result, this Court has no personal jurisdiction over those Defendants.

SECOND AFFIRMATIVE DEFENSE

14. Plaintiff failed to perform conditions precedent under the contract with B. No. 280 Corp. and has failed to comply with the requirements of the Commercial Instrument and Maritime Liens Act 46 U.S.C. §§ 31301 - 31343.

THIRD AFFIRMATIVE DEFENSE

15. Plaintiff has failed to mitigate its damages.

FOURTH AFFIRMATIVE DEFENSE

16. Bouchard Transportation Co., Inc was acting as an agent for a disclosed principal and has no liability for the contracts entered into by the B. No. 280 Corp.

FIFTH AFFIRMATIVE DEFENSE

17. The arrest of the Barge B. No. 280 violates the due process clauses of the 5th and 14th Amendments to the U.S. Constitution.

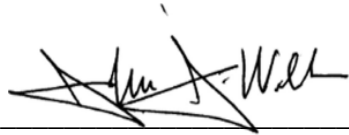
WHEREFORE, Defendants, Bouchard Transportation Co., Inc., Barge B. No. 280 *in rem* and B. No. 280 Corp. hereby request that judgment be entered in their favor, vacating the arrest of the Barge B No. 280, dismissing the Verified Complaint together with the costs of this

action and for such, other and further relief as this Court may deem just and proper.

Dated: New York, New York
March 25, 2020

FREEHILL HOGAN & MAHAR, LLP
*Attorneys for Bouchard Transportation Co., Inc.,
Barge B. No. 280 and B. No. 280 Corp.*

By: _____



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